

**APPROVED** (as presented Dec 21, 2009)  
**REGULAR MEETING OF THE BOARD OF MANAGERS OF THE  
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT  
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN  
4:00 P.M. NOVEMBER 16, 2009**

The meeting was called to order by President Doug Sorenson. Managers Alvin Nybladh, John W Nelson, Ben Kleinwachter, Doug Sorenson, Marvin Hedlund, Roger Hille and David Bakke were present. Nick Drees, Connie Kalinowski, Danny Omdahl, Wallace Diedrich, Ron Adrian, Loren Zutz and Jeff Hane were also present.

Wallace Diedrich taped the meeting with 2 recorders and Loren Zutz taped with 1 recorder.

Motion by Mr. Alvin Nybladh, seconded by Mr. John W Nelson that Connie Kujawa be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh that the agenda be accepted as presented. Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Marvin Hedlund that the regular meeting be recessed to conduct the hearing on the Acceptance of the Contract of Zavoral Construction and Davidson Construction for the Agassiz Valley Water Resource Management Project, pursuant to Minnesota Statutes 103E.555. Motion unanimously carried.

The regular meeting was recessed at approximately 4:03 p.m.

The hearings were conducted with all managers present. Others Present were Ronald J Adrian, Nick Drees, Connie Kujawa, Jeff Hane, Danny Omdahl, Loren Zutz and Wallace Diedrich.

Correspondence from Jim Stengrim opposing the acceptance of the contract of Zavoral Construction and Davidson Construction was distributed.

Ronald J Adrian presented the Engineer's Report and stated that the construction of Phase 1 of the Agassiz Valley Water Resource Management Project has been substantially completed with the exception of some mulching, which is in the process of being completed.

After review of the documents submitted, public input and discussion, the following resolution was adopted:

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**RESOLUTION TO ACCEPT THE CONTRACT OF ZAVORAL CONSTRUCTION,  
INC FOR PHASE 1 OF THE AGASSIZ VALLEY WATER RESOURCE  
MANAGEMENT PROJECT**

WHEREAS, Pursuant to Minnesota Statute 103E.555, a public hearing was held at the Middle-Snake-Tamarac Rivers Watershed at 453 N McKinley Street, Warren, Minnesota, at 4:05 p.m., to accept the contract of Zavoral Construction, Inc of East Grand Forks, Minnesota for the construction of Phase 1 of the Agassiz Valley Water Resource Management Project;

WHEREAS, notice was given by publication and by US Mail to all parties as required by statute;

WHEREAS, the Board reviewed correspondence from Jim Stengrim and entertained the public for comments;

WHEREAS, the change orders issued during construction were distributed for review by the Board; and

WHEREAS, Ronald J Adrian, Engineer of Houston Engineering, presented the Completed Engineer's Report on Phase 1 of the Agassiz Valley Water Resource Management Project, stating the contract is substantially completed;

**NOW THEREFORE BE IT RESOLVED BY THE FOLLOWING MOTION:**

Motion by Mr. John W Nelson, seconded by Mr. Roger Hille that the District accept the contract of Zavoral Construction, Inc, for Phase 1 of the Agassiz Valley Water Resource Management Project contingent upon the receipt of all signed releases; and that payment be made in the amount of \$430,722.46 with \$7,500.00 being withheld until the mulching is completed on approximately 25 acres. Motion unanimously carried.

Norman Lindemoen joined the meeting at approximately 4:12 p.m.

Nate Dalager joined the meeting at approximately 4:27 p.m.

Ronald J Adrian presented the Engineer's Report and stated that the construction of Phase 2 of the Agassiz Valley Water Resource Management Project by Davidson Construction, Inc of Newfolden, Minnesota has been completed with the exception of some mulching and the removal of the temporary ditch checks, which is in the process of being completed.

After review of the documents submitted, public input and discussion, the following resolution was adopted:

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**RESOLUTION TO ACCEPT THE CONTRACT OF DAVIDSON  
CONSTRUCTION, INC FOR PHASE 2 OF THE AGASSIZ VALLEY WATER  
RESOURCE MANAGEMENT PROJECT**

WHEREAS, Pursuant to Minnesota Statute 103E.555, a public hearing was held at the Middle-Snake-Tamarac Rivers Watershed at 453 N McKinley Street, Warren, Minnesota, at 4:05 p.m., to accept the contract of Davidson Construction, Inc of Newfolden, Minnesota for the construction of Phase 2 of the Agassiz Valley Water Resource Management Project;

WHEREAS, notice was given by publication and by US Mail to all parties as required by statute;

WHEREAS, the Board reviewed correspondence from Jim Stengrim and entertained the public for comments;

WHEREAS, the change orders issued during construction were distributed for review by the Board; and

WHEREAS, Ronald J Adrian, Engineer of Houston Engineering, presented the Completed Engineer's Report on Phase 2 of the Agassiz Valley Water Resource Management Project, stating that the contract is substantially completed;

**NOW THEREFORE BE IT RESOLVED BY THE FOLLOWING MOTION:**

Motion by Mr. Roger Hille, seconded by Mr. Ben Kleinwachter that the District accept the contract of Davidson Construction, Inc, for the construction of Phase 2 of the Agassiz Valley Water Resource Management Project contingent upon the receipt of all signed releases; and that payment be made in the amount of \$61,433.59 with payment of \$4,380 for the ditch check removal and mulching being withheld, until the work is completed. Motion unanimously carried.

Motion by Mr. Marvin Hedlund, seconded by Mr. David Bakke that the hearing be closed and the regular meeting resumed. Motion unanimously carried.

The hearing was closed and the regular meeting resumed at approximately 4:37 p.m.

Motion by Mr. Alvin Nybladh, seconded by Mr. Roger Hille that the minutes of the October 19, 2009 meeting be accepted as presented. Motion carried, with Mr. John W Nelson abstaining.

A discussion was held concerning "unapproved minutes" of the sub-committee meeting, held on November 2, 2009.

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It was the consensus of the sub-committee that they were directed to report to the Board their findings and decision and that the "unapproved minutes" should be amended to state they are a report of the meeting and not minutes. The record will be amended to reflect the change.

Nick Drees stated that check #14638, in the amount of \$494.00 to Rinke-Noonan, be voided, due to an error in classification on the bill, and that checks numbered 1774 for \$360.00 and 14375 for \$134.00 be issued in place of the voided check.

Nick Drees stated that checks #1772 and #1773, from the Project Funds to Davidson Construction and Zavoral Construction be voided due to changes in the payment on the contracts.

The financial report was reviewed and filed for audit purposes.

Richard Kuzel and Ron Kmecik joined the meeting at approximately 4:50 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following bills be paid, excluding check numbers 14638, 1772 and 1773; from the Administrative funds: that payroll checks numbered 4932 through 4943 inclusive for a total of \$14,855.96; and checks numbered 14348 through 14375, including the service charge for a total of \$35,293.89; from the Project funds that checks numbered 1761 through 1771 for a total of \$27,924.30; and from the Ditch Funds that checks numbered 2350 through 2358 for a total of \$59,654.15 be paid. Motion unanimously carried.

Loren Zutz addressed the Board at the Open Forum and inquired on the sub-committee that was formed to review the Attorney bills of Steve Anderson and stated he wanted to receive a copy of Steve Anderson's bill; inquired about the agenda item #14 (Agassiz Valley Water Mgmt Project) Outlet Improvement and what that entailed; and asked if the meeting would be closed later and if he would be able to attend the closed meeting.

Jeff Hane informed Loren Zutz that the open forum is to receive comments and it is not for questions or depositions.

Richard Kuzel and Ron Kmecik discussed the denied permit (09-075) regarding Tabor Township removing the (2) 24" centerline culverts in the Southeast Northeast quarter of section 18 of Tabor Township. They stated for safety reasons the culverts should be removed and that they would work with Mark Judovsky in remedying the drainage issue in the NW4 of section 17 of Tabor Township..

Motion by Mr. Marvin Hedlund, seconded by Mr. David Bakke to reconsider and approve the previously denied permit (09-075) to Tabor Township to remove the

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(2) 24' centerline culverts with the township to regrade the ditch and reset the existing culvert with the adjacent landowner, with the District to set the grade. Motion unanimously carried.

Ron Kmecik and Richard Kuzel left the meeting at approximately 5:45 p.m.

Norman Lindemoen addressed the Board on behalf of Newfolden Township regarding the permit #09-089.

Motion by Mr. David Bakke, seconded by Mr. Marvin Hedlund that the following permit be issued:

1. Permit (09-089) of Newfolden Township to install an 18" township road centerline culvert with a gate on the east end, in the SE NE of section 18 of Newfolden Township, on Branch 4 of Judicial Ditch #15, with the District to set the height.

Motion unanimously carried.

Charlie Anderson joined the meeting at approximately 5:55 p.m.

Motion by Mr. Roger Hille, seconded by Mr. Alvin Nybladh that the following permit be issued:

2. Permit (09-084) to Todd Bjorgaard to remove a culvert combination consisting of a 10" and 12" culverts, and replace with an 18" culvert with a gate, on Judicial Ditch #15 Main, in the NE NW of section 12 of Marsh Grove Township, with the District to set the height.

Motion unanimously carried.

Norman Lindemoen left the meeting at approximately 5:58 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following permit be approved:

3. Permit (09-080) to the Marshall County Highway Department to remove a 113" x 81" concrete bridge on County Ditch #25, Lateral 4, on Marshall County Road #28, and replace with a 54" culvert, as recommended by the District Engineer, in the NW NW of section 10 of Holt Township.

Motion unanimously carried.

Motion by Mr. Roger Hille, seconded by Mr. John W Nelson that the following permit be denied due to the proposed culvert sizing:

4. Permit (09-081) of Don Loeslie to remove an 18" thru a field crossing and replace with a 30" culvert in the NW NW of section 15 of Warrenton

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Township and to remove an 18" field crossing culvert in the SW NW and replace with a 24" culvert in the W2 of section 15 of Warrenton Township. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the following permit be issued:

5. Permit (09-082) to Arlyn Stroble to install an 18" trap on the east end of an existing 18" RCP, thru 303<sup>rd</sup> Ave NW, on the SE side of Angus, in section 9 of Angus Township.

Motion unanimously carried.

Motion by Mr. Roger Hille, seconded by Mr. Alvin Nybladh that the following permit be issued:

6. Permit (09-083) to Kenny Malm to remove (3)-15" culverts and traps at stations 118+97, 125+95, and 131+72 that drain into Judicial Ditch #29, Lateral 1 and to replace them with (3) new 15" culverts and traps in the NW4 of section 25 Fork Township.

Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following permit be issued:

7. Permit (09-085) to Cecil Deschene to install 8" field drain tile in the SE NE, of section 5 and the outlet drain of said tile to be installed into Marshall County Ditch 3 in Lot 1, near the boundary between Lots 1 and 2, in the NE4 of section 5 Warrenton Township. No pump may be installed in conveyance of tiled water.

Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following permit be issued:

8. Permit (09-088) to Solem Farms to remove an 18" centerline culvert under 200<sup>th</sup> St NW in the NE NE of section 18 that drains water northerly, and to install a 24" culvert under said street approximately 450' west of culvert to be removed, in the SE4 of section 7 Higdem Township, provided approval is received from Higdem Township.

Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. David Bakke that the following permit be tabled pending additional information is received.

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9. Permit (09-086) of the Canadian Pacific Railroad to remove an existing bridge over the Snake River and install (2) lines of 16' x 14' concrete box culverts, in the NW4 of section 1 of Boxville Township.

Motion unanimously carried.

The board took no action on the permit request (09-087) of Solem Farms to remove (2) 18" culverts on 2 field crossings and replace with (2) 18" culverts in the NW4 of section 3 of Oak Park Strip Township. The work has been done prior to applying for a permit.

Charlie Anderson of JOR Engineering discussed with the Board the cracked pipe on the outlet riser of the Angus Oslo #4 Impoundment and suggested some options to fix the pipe.

Motion by Mr. John W Nelson, seconded by Mr. Roger Hille that the District authorize, Charlie Anderson of JOR Engineering, to proceed with the repair of the 4' culvert on the Angus Oslo #4 Impoundment, using the expansion sleeve option and to mud jack if the work warrants. Motion unanimously carried.

Nate Dalager reported that the wetland survey of the proposed Brandt/Angus project has been completed.

Charlie Anderson left the meeting at approximately 7:00 p.m.

The proposed resolutions received by the Minnesota Association of Watershed Districts that are up for consideration at their Annual Meeting were distributed. It was the consensus of the Board to listen to the conversations at the Annual meeting, but it is their feeling that the increases in the proposed levy's are to dramatic.

There were no data practice requests distributed.

Nick Drees reported that the work under the FEMA agreement on Judicial Ditch #75 has been completed; that Zavoral Construction is repairing the scour holes on Judicial #20 in Vega Township; that he is in the process of hiring a contractor to clean a portion of Judicial Ditch #25-1 and that the rip rap on Watershed Ditch #5, in Esther Township, has not been completed.

A discussion was held concerning the removal of the bridge on Judicial Ditch #25-1, Main Branch, at station 102+77.

Ron Adrian stated that based on a 10 year frequency it appears a 48" culvert would be sufficient to replace the bridge at station 102+77 on Judicial Ditch #25-1, Main Branch.

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Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson to accept the Engineer's recommendation to replace the bridge at section corner 1/6 and 12/7 of McCrea and Comstock Township, on Judicial Ditch #25-1, at station 102+77 with a 48" culvert. Motion unanimously carried.

Nate Dalager left the meeting at approximately 7:25 p.m.

Nick Drees reported that the Red River Watershed Management Board did not take formal action regarding the request to forward funds to the District to purchase lands for the proposed Brandt/Angus project, but they are in favor of the project moving forward.

Mr. John W Nelson and Mr. Marvin Hedlund were directed to schedule a meeting with the landowners, Sonny Chruszch and Alice Whitehead, and make them an offer with the landowners to keep the CRP payments, and report back to the Board.

Nick Drees reported that the Red Lake Watershed District had applied for a Lessard-Sams Outdoor Heritage Council grant, for funding of Project 60, which was denied and that meetings with the sub-committees of the District's Overall Plan had been held.

Nick Drees stated that Arlyn Stroble has received a conditional use permit to clean the South Branch of the Snake River in Section 2 of McCrea Township.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson authorizing the cleaning of the South Branch of the Snake River, in section 2 of McCrea Township provided a perpetual easement is received from the landowner and that funds are expended from the Agassiz Valley Water Management project funds for the cleaning. Motion unanimously carried.

Nick Drees reported that the box culvert under Highway #1 of the PL-566 Diversion Project has eroded under the inlet end.

Roger Hille stated that the Minnesota Department of Transportation has grouted the void under the culvert and is seeking reimbursement from the District for the mud jacking on the box culvert.

Motion by Mr. John W Nelson, seconded by Mr. David Bakke that the District pay the costs associated with the mud jacking of the box culvert, under MN Trunk Highway #1, from the PL-566 Snake River Flood Control Project funds. Motion carried, with Mr. Roger Hille abstaining.

Nick Drees requested that he be granted authorization to sign the grant agreement with the NRCS, in the amount of \$10,000 for seeding of wetland area of the PL-566 project.



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Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that Nick Drees be authorized to sign the PL-566 grant agreement with the NRCS, in the amount of \$10,000.00. Motion unanimously carried.

Nick Drees reported that for the construction of the Leland Ruppert farmstead ring dike, material would need to be trucked to the site.

It was the consensus of the Board to proceed with the construction of the Leland Ruppert farmstead ring dike.

It was announced that the Red River Watershed Management Board meeting is scheduled for 9:30 a.m., November 17, 2009 at the Red Lake Watershed District.

By consensus of the Board, Mr. Ben Kleinwachter and Mr. David Bakke were appointed the District's delegates, with Mr. Roger Hille appointed the alternate, for the MAWD Annual Meeting scheduled for December 3-5, 2009.

Mr. Marvin Hedlund gave a brief report on the Red River Basin meeting held in Oslo, Minnesota, on October 26, 2009, dealing with the spring flooding on the Red River of the North.

Nick Drees reported that the Army Corps of Engineers will be holding a meeting on November 19, 2009, at 1:00 p.m., in Oslo, Minnesota to address access into Oslo during flood events.

The 2008 Advisory Committee Members list was distributed and reviewed for additions or deletions. It was announced that the 2009 Advisory Committee meeting of the District is scheduled for Monday, November 30, 2009 at the Bremer Bank in Warren at 1:00 p.m.

Nick Drees was directed to meet with the District employee's regarding employment compensation terms for 2010.

Nick Drees reported that the 2009 FEMA projects are finishing up; and that Danny Omdahl escorted a group of scholars from the University of Minnesota-Crookston campus on a tour of the PL-566 project, the Agassiz Valley Water Resource Management Project and the Angus Oslo #4 Impoundment.

Jeff Hane stated he had nothing to report regarding the Managers lawsuit; that arguments were heard and he is waiting for word from the Supreme Court on the Agassiz Valley Water Resource Management Breach of the Settlement Agreement (Stengrim lawsuit); that it appears litigation on the PL-566 (Riley) case maybe settled; that he is awaiting word from the Court of Appeals on the Drewes (Angus Oslo #4) lawsuit; that the hearing in the alleged open meeting lawsuit filed by Jim Stengrim is scheduled for December 10, 2009; that oral

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arguments were heard in the Tom Ritoch case and the court ruled in favor of the District; and that the title work for the acquisition of lands for the repair of Judicial Ditch #75 is completed.

Mr. Doug Sorenson announced that the Advisory Committee meeting is scheduled for November 30, 2009 at 1:00 p.m. and that the next regular meeting of the Board of Managers is scheduled for December 21, 2009 at 4:00 p.m., the District office.

Jeff Hane requested the meeting be closed, pursuant to Minnesota Statutes 13D.05 subd 3 (b), under the Attorney/Client Privileges for purposes of discussing legal theories and strategies regarding the status of the Riley litigation and settlement; litigation issues regarding the Angus/Oslo #4 lawsuit; and the alleged open meeting lawsuit of Jim Stengrim.

Motion by Mr. Marvin Hedlund, seconded by Mr. Ben Kleinwachter that the meeting be closed. Motion unanimously carried.

The meeting was closed at approximately 9:00 p.m.

Connie Kujawa, Danny Omdahl, Ron Adrian, Wallace Diedrich and Loren Zutz left the meeting at approximately 9:00 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the meeting be reopened. Motion unanimously carried.

The meeting was reopened at approximately 9:34 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Marvin Hedlund to approve the findings and order on indemnity. Motion unanimously carried.

Motion by Mr. David Bakke, seconded by Mr. Marvin Hedlund to approve payment of Attorney, Steve Anderson's bill. Motion unanimously carried.

Motion by Mr. Roger Hille, seconded by Mr. John W Nelson to authorize Nick Drees to sign the settlement Agreement with Riley Brothers (PL-566) and to advance the payment with the funds to be reimbursed by the NRCS. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. David Bakke that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 10:01 p.m.

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Connie Kujawa  
Recording Secretary

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Ben Kleinwachter  
Secretary